

POCKET NO.: 241632US90/phh

*JPW*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF:

So ISHIDA, et al.

SERIAL NO: 10/642,215

GROUP: 2661

FILED: August 18, 2003

EXAMINER:

FOR: COMMUNICATION EQUIPMENT, COMMUNICATION SYSTEM, AND  
COMMUNICATION METHOD

**LETTER**

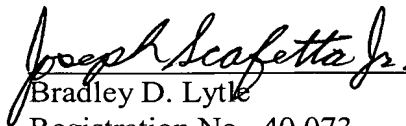
Mail Stop DD  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a People's Republic of China Office Action for the Examiner's consideration. The reference cited therein has been previously filed on December 30, 2003.

Respectfully Submitted,

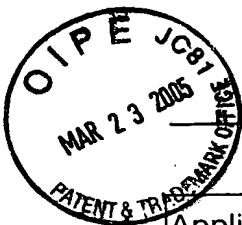
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
Bradley D. Lytle

Registration No. 40,073

Joseph Scafetta, Jr.  
Registration No. 26,803

Customer Number  
**22850**  
Tel. (703) 413-3000  
Fax. (703) 413-2220  
(OSMMN 10/04)



# THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Applicant	<b>NTT DOCOMO, INC.</b>	Issue Date  February 18, 2005
Agent	<b>Dragon International Patent Office</b>	
Application No.	<b>03153926.2</b>	
Title of Invention	<b>COMMUNICATION EQUIPMENT, COMMUNICATION SYSTEM, AND COMMUNICATION METHOD</b>	

## THE NOTIFICATION OF THE FIRST OFFICE ACTION

1. ☐ In accordance with the Request for substantive examination, the examiner has made the examination on the above patent application based on the provision of paragraph 1, Article 35 of the PRC Patent Law.

☐ The Patent Office itself has decided to make a substantive examination for the above cited patent application based on the provision of paragraph 2, Article 35 of the PRC Patent Law.

2. ☒ The applicant requested to designate the filing date of  
\_\_\_\_ JP \_\_\_\_ in the Patent Office of \_\_\_\_ August 20, 2002 \_\_\_\_ as the priority date;  
\_\_\_\_ in the Patent Office of \_\_\_\_ as the priority date;  
\_\_\_\_ in the Patent Office of \_\_\_\_ as the priority date;

☒ The applicant had filed a copy of the priority application proved by the patent office which receives the priority application.

☐

3. ☐ Amendment was filed on \_\_\_\_ by the applicant.

☐ The applicant submitted the amended text is not in conformity with Article 33 of PRC Patent Law and is unacceptable:

☐ The amended text submitted according to Article 28 or 41 of the PCT.

☐

4. ☒ Examination is made based on the Chinese translation of the original filing document.

☐ Examination is made based on the following documentations.

☐ page(s) \_\_\_\_ of description based on the Chinese translation of the original filing document.

Page(s) \_\_\_\_ of description based on the Chinese translation of attachment of international Preliminary Examination Report.

Page(s) \_\_\_\_ of description based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.

Page(s) \_\_\_\_ of description based on the amended documents that are submitted in accordance with Article 51 of the PRC Patent Law.

☐ Item(s) \_\_\_\_ of claims based on the Chinese translation of the original filing document.

☐ Item(s) \_\_\_\_ of claims based on the Chinese translation of the amended documents that are submitted in accordance with Article 19 of the PCT.

Item(s) \_\_\_\_ of claims based on the Chinese translation of attachment of international

Preliminary Examination Report.

Item(s) \_\_\_\_\_ of claims based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.

Item(s) \_\_\_\_\_ of claims based on the amended documents that are submitted in accordance with Article 51 of the PRC Patent Law.

☐ page(s) \_\_\_\_\_ of drawings based on the Chinese translation of the original filing document.

Page(s) \_\_\_\_\_ of drawings based on the Chinese translation of attachment of international Preliminary Examination Report.

Page(s) \_\_\_\_\_ of drawings based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.

Page(s) \_\_\_\_\_ of drawings based on the amended documents that are submitted in accordance with Article 51 of the PRC Patent Law.

☐

5. ☒ The notification is made under the search for the patent ability.

☒ The following reference material has been cited in this notification (its serial number will be referred to in the following procedure);

FILED  
12-30-03

Serial Number	Number or Title of Reference Material	Publication Date (or Filing Date of A Conflict Patent Application)
1	Multiple paths protocol for a cluster type network	February 10, 1999

6. The conclusion of the examination;

☐ In regard to the description;

☐ The subject matter of the present application is not accepted based on the Article 5 of the PRC Patent Law.

☐ The presentation of the description is not in conformity with the provision of Paragraph 3, Article 26 of the PRC Patent Law.

☐ The presentation of the description is not in conformity with the provision of Article 33 of the PRC Patent Law.

☐ The presentation of the specification is not in conformity with the provision of Rule 18 of the Implementing Regulations of the PRC Patent Law.

☒ In regard to the Claims:

☐ Claims \_\_\_\_\_ can not be allowed owing to lack of novelty based on the provision of paragraph 2, Article 22 of the PRC Patent Law.

☒ Claims 1-7 can not be allowed owing to lack of inventiveness based on the provision of paragraph 3, Article 22 of the PRC Patent Law.

☐ Claims \_\_\_\_\_ do not belong to the definition of invention based on the provision of

- paragraph 1, Rule 2 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claims \_\_\_\_\_ can not be allowed beyond the scope of the protection based on the Article 25 of the PRC Patent Law.
  - ☐ Claims \_\_\_\_ can not be allowed based on the provision of paragraph 4, Article 26 of the PRC Patent Law.
  - ☐ Claims \_\_\_\_ can not be allowed based on the provision of paragraph 1, Article 31 of the PRC Patent Law.
  - ☐ Claims \_\_\_\_ can not be allowed based on the provision of Rules 20 of the Implementing Regulations of the PRC Patent Law.
  - ☐ Claim \_\_\_\_ can not be allowed based on the provision of Rules 21 of the Implementing Regulations of the PRC Patent Law.
  - ☐ Claims \_\_\_\_ can not be allowed based on the provision of Rules 22 of the Implementing Regulations of the PRC Patent Law.
  - ☐ Claims \_\_\_\_\_ can not be allowed based on the provision of Article 9 of the PRC Patent Law.
  - ☐ Claims \_\_\_\_\_ can not be allowed based on the provision of paragraph 1, Rule 13 of the Implementing Regulations of the PRC Patent Law.

**The explanation of the conclusion is given in the attachment sheet in details**

7. According to the above conclusion, it is considered that

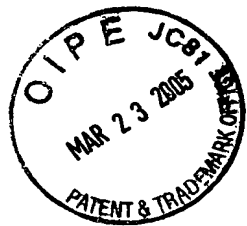
- ☐ the applicant should amend the application documents based on the request in the Attachment Sheet.
- ☐ the applicant should state the reason on which the application can be accepted and amend the part that is indicated not to be conformity with the requirement, otherwise the application will be rejected.
- ☒ No subject matter in the application is accepted, said application will be rejected if the applicant does not make a statement or fail to make a statement.

8. The applicant is drawn attention to that

- (1) In accordance with the provisions in Article 37 of the PRC Patent Law, the applicant shall submit the observation within **FOUR** months from the date of receiving this notification. If the applicant, without any justified reason, fails to reply within the time limit, the application shall be deemed to have been withdrawn.
- (2) The applicant shall make amendments to what is not in conformity with the provisions in the text of this notification. The amended text shall be furnished in duplicate. The formality of the document should be in conformity with the relative provisions in the Guidebook for Examination.
- (3) The applicant and/or his attorney could not go to the PRC Patent Office to meet the examiner if no appointment is made.
- (4) **Any response and/or amended specification must be mailed or sent by hand to the receiving Department of the PRC Patent Office. Any documents that are not sent to the Receiving Department do not have legal force.**

9. The text of notification embraces   2   page(s), along with the enclosures herein:

- ☐        copy of the cited reference is enclosed in pages of       .



## **Text of the Notification of the First Office Action**

Application Number: 03153926.2

1. Independent claim 1 seeks for protection for a communication equipment. Reference 1 discloses a multiple paths protocol for a cluster type network together with following technical features: a number of mobile hosts communicate mutually; the number of mobile hosts construct a temporary network; mobile hosts in the network can share addresses of the cluster when communicating with the outside network; any mobile host can freely select any kinds of communication paths and medium for communicating with the outside network, wherein a path selecting module selects paths to transmit packet (refer to the abstract on page 150, the right column on page 151, the left column on page 152, page 153 and Figures 2-3 of the specification). The said "reception/transmission unit" in the communication equipment defined in the claim is a generally known knowledge and it notifies other mobile host of its addresses and acquires addresses of other mobile host; the said "path selecting module" of reference 1 corresponds to the said "controller" of the claim. Although the technical solution "a plurality of mobile hosts construct a network and share addresses mutually to realize a host with a plurality of paths" described in reference 1 is not totally same as that defined in claim 1, the purpose of the two is the same, and the configuration of claim 1 does not have any change compared to that of reference 1. It is obvious for one skilled in the art to obtain the technical solution sought for protection in claim 1 by combining the generally known knowledge on the basis of reference 1. Therefore, claim 1 does not have prominent substantive features or represent a notable progress in view of reference 1, and thus lacks of inventiveness and is not in

conformity with the provision of Paragraph 3, Article 22 of the PRC Patent Law.

2. Dependent claims 2-5 further limit the said communication equipment. However, reference 1 discloses that any mobile host can freely select any kinds of communication paths and medium for communicating with the outside network, wherein a path selecting module selects paths to transmit packet and packets are distributed according to the rate of each path (refer to page 153 of the specification). The said “reception/transmission unit” in the communication equipment defined in the claim is a generally known knowledge, which notifies other mobile host of its addresses and acquires addresses of other mobile hosts; the said “path selecting module” of reference 1 corresponds to the said “controller” of the claim. Therefore, the above claims lack of inventiveness and are not in conformity with the provision of Paragraph 3, Article 22 of the PRC Patent Law.

3. Independent claim 6 seeks for protection for a communication system. Reference 1 discloses the following technical features: the mobile hosts constructing a cluster network share addresses of the cluster; any mobile host can freely select any kinds of communication paths and medium for communicating with the outside network, wherein a path selecting module selects paths to transmit packet; packets are distributed according to the rate of each path (refer to the abstract on page 150, the right column on page 151, the left column on page 152, page 153 and Figures 2-3 of the specification). The said “reception/transmission unit” in the communication equipment defined in the claim is a generally known knowledge and it notifies other mobile host of its addresses and acquires addresses of other mobile host; the said “path selecting module” of reference 1 corresponds to the said “controller” of the claim. Although the technical solution “a plurality of mobile hosts construct a

network and share addresses mutually to realize a host with a plurality of paths” described in reference 1 is not totally same as that defined in claim 6, the purpose of the two is the same, and the configuration of claim 6 does not have any change compared to that of reference 1. It is obvious for one skilled in the art to obtain the technical solution sought for protection in claim 6 by combining the generally known knowledge on the basis of reference 1. Therefore, claim 6 does not have prominent substantive features or represent a notable progress in view of reference 1, and thus lacks of inventiveness and is not in conformity with the provision of Paragraph 3, Article 22 of the PRC Patent Law.

4. Independent claim 7 seeks for protection for a communication method. Reference 1 discloses the following technical features: mobile hosts constructing a cluster network share addresses of the cluster; any mobile host can freely select any kinds of communication paths and medium for communicating with the outside network, wherein a path selecting module selects paths to transmit packet; packets are distributed according to the rate of each path (refer to the abstract on page 150, the right column on page 151, the left column on page 152, page 153 and Figures 2-3 of the specification). It can be seen from the disclosure of reference 1 that the reception/transmission unit of a mobile host in the cluster network notifies other mobile host of its addresses by transmitting packets and acquires addresses of other mobile host and the said “path selecting module” of reference 1 corresponds to the said “controller” of the claim. Although the technical solution “a plurality of mobile hosts construct a network and share addresses mutually to realize a host with a plurality of paths” described in reference 1 is not totally same as that defined in claim 7, the purpose of the two is the same, and the configuration of claim 7 does not have any change compared to that of reference 1. It is obvious for one skilled in the art to obtain the technical

solution sought for protection in claim 7 by combining the generally known knowledge on the basis of reference 1. Therefore, claim 7 does not have prominent substantive features or represent a notable progress in view of reference 1, and thus lacks of inventiveness and is not in conformity with the provision of Paragraph 3, Article 22 of the PRC Patent Law.

Based on the above reasons, all independent claims and dependent claims of the present application lack of inventiveness, and no subject matter which deserves a patent is recorded in the specification. Therefore, even if the applicant recombines and/or further limits the claims according to the description of the specification, the present application has no a prospect of being allowed for a patent. If the applicant can not provide sufficient reasons to prove that the present application has inventiveness within the due time specified in the notification, the present applicant will be rejected.